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Issued January 5, 1940

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
Washington, D.C.PROCEDURE GOVERNING THE HANDLING OF CASES
INVOLVING OVERPAYMENTS UNDER ANY PROGRAM
ADMINISTERED THROUGH THE AGRICULTURAL AD-
JUSTMENT ADMINISTRATION

Effective immediately, the procedure set forth herein shall be followed in all instances of overpayment (1) under present or past programs administered through the Agricultural Adjustment Administration (hereinafter referred to as the Administration) wherein the amount of the overpayment was or was not earned by one or more other persons with whom full settlement therefor has not heretofore been made by the person overpaid or (2) under future programs so administered.

I. Every case in which any person has, or appears to have, received the whole or a part of any payment which another person earned under the program pursuant to which the payment was made shall be fully and promptly investigated by the appropriate County Agricultural Conservation Committee (hereinafter referred to as the County Committee) as soon as such case is known to it. Any such case which comes to the attention of the state or Washington office of the Administration shall (unless the appropriate Regional Director of the Administration determines that the circumstances require that the investigation should be conducted by an agency other than the County Committee) be promptly referred to the County Committee for investigation. Wherever necessary, the State Agricultural Conservation Committee (hereinafter referred to as the State Committee) and the County Committee may, with the approval of the Regional Director, obtain the assistance of the State or regional office, the Field Investigation Section of the Division of Marketing and Marketing Agreements of the Administration, or such other agency of the Department as may be designated for that purpose.

II. The County Committee, immediately after concluding its investigation of any case, shall, in conformity with the applicable regional flow procedure, make a report to the State Committee giving all the pertinent facts disclosed by its investigation, and, if such facts show that an overpayment has been made, it shall -

- A. place the name of the person who received the overpayment on the Register of Indebtedness maintained in the county office and no check for any payment under any program of the Administration shall be delivered to such person or his assignee until the exact amount to be refunded by him has been determined and such amount has been refunded.
- B. (1) submit to the State Committee a corrected application for payment (sometimes called a supplemental or adjustment application) the original of which shall be --

a. certified by the County Committee;

- b. certified (on a separate statement where he has not signed the corrected application for payment as an applicant) by the person overpaid, where possible; and
- c. if timely filed (that is, filed with the County Committee prior to the closing date for filing applications established under the provisions of the applicable program), signed by each person entitled to the whole or a part of the amount of the overpayment who desires, and is available, to make application for such share.

(2) if the overpayment was made in connection with an acreage or production adjustment contract or application therefor under the 1933, 1934, 1935, or 1936 programs (hereinafter referred to as rental-benefit contract), which rental-benefit contract was, prior to January 6, 1936, entered into or applied for by each person who claims to be entitled to the whole or a part of the amount of the over-payment, instead of a corrected application for payment, --

- a. submit a statement, in duplicate, fully setting forth the basis of such claim (hereinafter referred to as statement of claim) the original of which shall be signed by each such claimant who is available and certified by the County Committee and, where possible, by the person who received the overpayment.

III. The State Committee, upon receipt of the County Committee's report and the corrected application for payment, or the statement of claim, in duplicate, shall --

- A. have an audit made of the corrected application for payment or the rental-benefit contract in connection with which the overpayment was made, as the case may be, and have determined the correct amount of the payment, including, where applicable, the small-payment increase under the provisions of section 8(e) of the Soil Conservation and Domestic Allotment Act; and
- B. fully consider the facts in the case as disclosed in the County Committee's report, and by such further investigation as the State Committee may find necessary to make or cause to be made, and determine whether or not the evidence indicates that fraud has been perpetrated in the case.

(1) If it is found that the person to whom the overpayment was made knew that the data entered on the application with respect to performance on his farm were not in accordance with the facts and the regulations and official instructions governing the program, he shall be deemed to have induced the over-payment by fraudulent conduct. Such person shall in all cases be presumed to know what data are entered on the application as it stood at the time he signed it. Whether a finding is

justified that such person at the time he executed it believed that the statements in the application were in accordance with the facts and the regulations and official instructions governing the program would depend on the nature, extent, and effect of the misstatement in the application. In applying the principles set out in this paragraph (1), the fact that any misstatement shown in the application was suggested or recommended by, or made with the knowledge of, any person connected with the County Committee or any other agency of the Government shall not be controlling.

(2) The State Committee in acting hereunder may designate a board of not less than three nor more than five persons, at least one of whom shall be a member of the State Committee, to examine into individual cases or groups of cases and make recommendations therein to the State Committee.

IV. If the State Committee finds that the evidence does not indicate fraud in the case, the procedure set forth in this section IV shall be followed:

A. The State Committee shall --

(1) have the name of the person who received the overpayment placed on the Register of Indebtedness maintained in the State office for the amount of the overpayment and no check for any payment under any program of the Administration shall be delivered to such person or his assignee until the amount of the overpayment has been refunded;

(2) forward to the County Committee a copy of the corrected application for payment (unless previously forwarded under section II), audited to show the correct amount of the payment, or if the case involves a rental-benefit contract a statement of the amount of the overpayment in connection therewith, with instructions to obtain from the person who received the overpayment a refund of the excess amount in the form of a certified check, cashier's check, postal money order, or bank draft drawn payable to the order of the Treasurer of the United States and to forward the remittance to the State office.

B. The State office, upon receipt of the remittance, shall --

(1) if the State office is in the North Central, Western, or Southern Region and the remittance is not in connection with a rental-benefit contract, schedule the remittance for deposit to the credit of the appropriation from which the overpayment was made;

(2) if the State office is in the East Central, Northeast, or Insular Region and the remittance is not in connection with a rental-benefit contract, transmit the remittance, together with

the report of investigation, the statement of the State Committee that the evidence does not indicate fraud, and the corrected application for payment, to the Chief of the Examining Section, Agricultural Adjustment Administration, Washington, D. C., for proper scheduling; or

(3) if the remittance is in connection with a rental-benefit contract, transmit the remittance, together with the report of investigation, the statement of the State Committee that the evidence does not indicate fraud, and the statement of claim, to the Office of the Comptroller, Agricultural Adjustment Administration, Washington, D. C., for proper scheduling.

C. The State office, if the corrected application for payment relates to a farm, plantation, or ranch in the North Central, Western, or Southern Region; the Examining Section, if the corrected application for payment relates to a farm, plantation, or ranch in the East Central, Northeast, or Insular Region; or the Office of the Comptroller, if the case is one involving a rental-benefit contract --

(1) shall certify and schedule for payment, through the appropriate preaudit office of the General Accounting Office, the amount of the overpayment shown by the audit of the corrected application or statement of claim, as the case may be, to be due the applicant or claimant (hereinafter referred to as the person underpaid), provided that:

- a. the corrected application for payment was timely filed;
or
- b. the statement of claim of the person underpaid is in connection with a rental-benefit contract which he applied for or entered into prior to January 6, 1936;
- c. payment shall not be certified in an amount greater than the amount refunded by the person overpaid, except in cases where the total payment due all persons under the corrected application for payment is greater than that due under the original application, by reason of
 - (a) the increase-in-small-payment provision of section 8(e) of the Soil Conservation and Domestic Allotment Act, or
 - (b) the corrected application disclosing additional or greater performance rendered with respect to the farm;
- d. if the person overpaid did not refund the entire amount of the overpayment, the portion refunded shall be certified for payment to the person underpaid, or if there

are two or more such persons the amount refunded shall be prorated among them on the basis of the amount of the payments to which they would otherwise be entitled, and the balance shall be certified for payment thereafter when recovered from the person overpaid, but if the certifying officer has reason to believe that the balance due the person overpaid will be recovered within a short period of time he may withhold certification until he is in position to certify the full amount due the person or persons underpaid.

(2) if the corrected application or statement of claim was not timely filed by any person claiming the whole or a part of the amount of overpayment, shall not certify payment to such person.

V. If the State Committee finds that the evidence indicates fraud in any case, the procedure set forth in this section V shall be followed:

A. The State Committee shall --

(1) have the name of the person who received the overpayment placed on the Register of Indebtedness in the State office and no check for any payment under any program of the Administration shall be delivered to such person or his assignee pending a determination of the correct amount to be refunded by him and the making of such refund; and

(2) make a written report of its findings to the appropriate Regional Director accompanied by the complete file in the case, including the corrected application for payment, or the statement of claim, and the County Committee's report of its investigation and a recital of the facts disclosed by any subsequent proceedings.

B. The Regional Director shall cause such additional investigation to be made of each case referred to him by the State Committee as is necessary fully to develop the facts. If the Regional Director determines that there is no showing of fraud in the case, the State and County Committees shall be so advised in writing and the case shall then be handled in accordance with section IV. If the Regional Director determines that the evidence shows that there is fraud in the case, he shall promptly transmit the complete file in the case to the Solicitor of the Department of Agriculture.

C. If, in the opinion of the Solicitor, there is no fraud in the case, he shall so advise the Regional Director in writing, who in turn shall advise the State and County Committees in writing and the case shall then be handled in accordance with section IV. If, in the opinion of the Solicitor, the overpayment was induced by fraud, he shall --

(1) so advise the Regional Director in writing, who shall take the steps necessary to make a charge on the Register of Indebtedness in the State Office against the person receiving the overpayment for the full amount of the payment received by him in connection with the particular application(s) for payment, or rental-benefit contract, with respect to which it is determined that there was fraudulent conduct (all applications for payment which are brought together under the multiple-farm provisions of any program shall be considered as a single application for payment for the purposes of this section V);

(2) advise the Regional Director in writing whether the facts in the case disclose that any of the persons who would otherwise be entitled to the whole or a part of the amount of the overpayment participated in, connived at, or instigated the fraudulent conduct which induced the overpayment, or obtained the benefit of any part of the amount of the overpayment; and

(3) refer the case to the Department of Justice for such action under the Criminal Code of the United States or other laws as such Department deems appropriate.

D. As to any person underpaid who did not participate in, connive at, or instigate the fraudulent conduct which induced the overpayment, the Regional Director shall take such steps as are necessary to make payment where due to such person in accordance with section IV, to the extent that it is found that he has not obtained the benefit of any part of the amount of the overpayment.

VI. Any payment which is or may become due under any program of the Administration to a person whose name has been placed upon the Register of Indebtedness shall be applied against his indebtedness, subject to the provisions of the Order Respecting Set-offs, entered by the Secretary of Agriculture on May 8, 1937, as Revised and Supplemented, or any succeeding order governing set-offs. When the Administration determines that it has exhausted its means of collecting the amount of overpayment the case shall be referred to the General Accounting Office for such action as it may deem appropriate.

VII. The foregoing procedure shall, insofar as applicable, be followed in cases of overpayment where no person has been deprived of any payment, in whole or in part, by reason of such overpayment.

VIII. The Administrator and each Regional Director of the Administration shall take such steps as are necessary to insure the application of this procedure and the protection of the interests of the Government in the cases to which it is applicable.

IX. This procedure does not apply to --

- A. Cases involving the misdelivery of Government checks which shall be handled in accordance with the procedure therefor now or hereafter established; or
- B. Cases involving the distribution of parity payments under the 1934 and 1935 cotton acreage reduction contracts, which shall be handled on and in accordance with Form Cotton 35 for the year 1934 and Form Cotton 135 for the year 1935; or
- C. Cases involving the distribution of 1935 cotton price adjustment payments, which shall be handled on and in accordance with Form C.A.P.-3; or
- D. Cases involving the failure of a person who received any payment under or in connection with a rental-benefit contract as a trustee to make a distribution of the payment in accordance with the terms of his trust, which shall be handled in such manner as to accomplish effectively and fully the object of such trust.

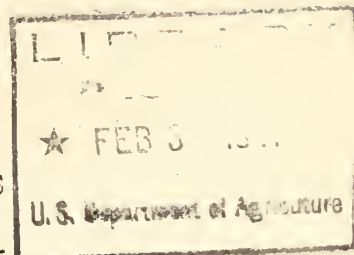
Done at Washington, D.C.,
this 5th day of January, 1940.
Witness my hand and the seal of the
Department of Agriculture.

(SEAL)

H A Wallace

Secretary of Agriculture.

December 11, 1940

UNITED STATES DEPARTMENT OF AGRICULTURE
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II. The County Committee, immediately after concluding its investigation of any case, shall, in conformity with the applicable regional flow procedure, make a report to the State Committee giving all the pertinent facts disclosed by its investigation, and, if such facts show that an overpayment has been made, it shall -

- A. place the name of the person who received the overpayment on the Register of Indebtedness maintained in the county office and no check for any payment under any program of the Administration shall be delivered to such person or his assignee until the exact amount to be refunded by him has been determined and such amount has been refunded.
- B. (1) submit to the State Committee a corrected application for payment (sometimes called a supplemental or adjustment application) the original of which shall be --
 - a. certified by the County Committee;

- b. certified (on a separate statement where he has not signed the corrected application for payment as an applicant) by the person overpaid, where possible; and
- c. if timely filed (that is, filed with the County Committee prior to the closing date for filing applications established under the provisions of the applicable program), signed by each person entitled to the whole or a part of the amount of the overpayment who desires, and is available, to make application for such share.

(2) if the overpayment was made in connection with an acreage or production adjustment contract or application therefor under the 1933, 1934, 1935, or 1936 programs (hereinafter referred to as rental-benefit contract), which rental-benefit contract was, prior to January 6, 1936, entered into or applied for by each person who claims to be entitled to the whole or a part of the amount of the over-payment, instead of a corrected application for payment, --

- a. submit a statement, in duplicate, fully setting forth the basis of such claim (hereinafter referred to as statement of claim) the original of which shall be signed by each such claimant who is available and certified by the County Committee and, where possible, by the person who received the overpayment.

III. The State Committee, upon receipt of the County Committee's report and the corrected application for payment, or the statement of claim, in duplicate, shall --

- A. have an audit made of the corrected application for payment or the rental-benefit contract in connection with which the overpayment was made, as the case may be, and have determined the correct amount of the payment, including, where applicable, the small-payment increase under the provisions of section 8(e) of the Soil Conservation and Domestic Allotment Act; and
- B. fully consider the facts in the case as disclosed in the County Committee's report, and by such further investigation as the State Committee may find necessary to make or cause to be made, and determine whether or not the evidence indicates that fraud has been perpetrated in the case.

(1) If it is found that the person to whom the overpayment was made knew that the data entered on the application with respect to performance on his farm were not in accordance with the facts and the regulations and official instructions governing the program, he shall be deemed to have induced the over-payment by fraudulent conduct. Such person shall in all cases be presumed to know what data are entered on the application as it stood at the time he signed it. Whether a finding is

justified that such person at the time he executed it believed that the statements in the application were in accordance with the facts and the regulations and official instructions governing the program would depend on the nature, extent, and effect of the misstatement in the application. In applying the principles set out in this paragraph (1), the fact that any misstatement shown in the application was suggested or recommended by, or made with the knowledge of, any person connected with the County Committee or any other agency of the Government shall not be controlling.

(2) The State Committee in acting hereunder may designate a board of not less than three nor more than five persons, at least one of whom shall be a member of the State Committee, to examine into individual cases or groups of cases and make recommendations therein to the State Committee.

IV. If the State Committee finds that the evidence does not indicate fraud in the case, the procedure set forth in this section IV shall be followed:

A. The State Committee shall --

(1) have the name of the person who received the overpayment placed on the Register of Indebtedness maintained in the State office for the amount of the overpayment and no check for any payment under any program of the Administration shall be delivered to such person or his assignee until the amount of the overpayment has been refunded;

(2) forward to the County Committee a copy of the corrected application for payment (unless previously forwarded under section II), audited to show the correct amount of the payment, or if the case involves a rental-benefit contract a statement of the amount of the overpayment in connection therewith, with instructions to obtain from the person who received the overpayment a refund of the excess amount in the form of a certified check, cashier's check, postal money order, or bank draft drawn payable to the order of the Treasurer of the United States and to forward the remittance to the State office.

B. The State office, upon receipt of the remittance, shall --

(1) if the State office is in the North Central, Western, or Southern Region and the remittance is not in connection with a rental-benefit contract, schedule the remittance for deposit to the credit of the appropriation from which the overpayment was made;

(2) if the State office is in the East Central, Northeast, or Insular Region and the remittance is not in connection with a rental-benefit contract, transmit the remittance, together with

are two or more such persons the amount refunded shall be prorated among them on the basis of the amount of the payments to which they would otherwise be entitled, and the balance shall be certified for payment thereafter when recovered from the person overpaid, but if the certifying officer has reason to believe that the balance due the person overpaid will be recovered within a short period of time he may withhold certification until he is in position to certify the full amount due the person or persons underpaid.

(2) if the corrected application or statement of claim was not timely filed by any person claiming the whole or a part of the amount of overpayment, shall not certify payment to such person.

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(2) make a written report of its findings to the appropriate Regional Director accompanied by the complete file in the case, including the corrected application for payment, or the statement of claim, and the County Committee's report of its investigation and a recital of the facts disclosed by any subsequent proceedings.

B. The Regional Director shall cause such additional investigation to be made of each case referred to him by the State Committee as is necessary fully to develop the facts. If the Regional Director determines that there is no showing of fraud in the case, the State and County Committees shall be so advised in writing and the case shall then be handled in accordance with section IV. If the Regional Director determines that the evidence shows that there is fraud in the case, he shall promptly transmit the complete file in the case to the Solicitor of the Department of Agriculture.

C. If, in the opinion of the Solicitor, there is no fraud in the case, he shall so advise the Regional Director in writing, who in turn shall advise the State and County Committees in writing and the case shall then be handled in accordance with section IV. If, in the opinion of the Solicitor, the overpayment was induced by fraud, he shall --

(See Item 4
Sup. 1 for
revision)

(1) so advise the Regional Director in writing, who shall take the steps necessary to make a charge on the Register of Indebtedness in the State Office against the person receiving the overpayment for the full amount of the payment received by him in connection with the particular application(s) for payment, or rental-benefit contract, with respect to which it is determined that there was fraudulent conduct (all applications for payment which are brought together under the multiple-farm provisions of any program shall be considered as a single application for payment for the purposes of this section V);

(2) advise the Regional Director in writing whether the facts in the case disclose that any of the persons who would otherwise be entitled to the whole or a part of the amount of the overpayment participated in, connived at, or instigated the fraudulent conduct which induced the overpayment, or obtained the benefit of any part of the amount of the overpayment; and

(3) refer the case to the Department of Justice for such action under the Criminal Code of the United States or other laws as such Department deems appropriate.

D. As to any person underpaid who did not participate in, connive at, or instigate the fraudulent conduct which induced the overpayment, the Regional Director shall take such steps as are necessary to make payment where due to such person in accordance with section IV, to the extent that it is found that he has not obtained the benefit of any part of the amount of the overpayment.

VI. Any payment which is or may become due under any program of the Administration to a person whose name has been placed upon the Register of Indebtedness shall be applied against his indebtedness, subject to the provisions of the Order Respecting Set-offs, entered by the Secretary of Agriculture on May 8, 1937, as Revised and Supplemented, or any succeeding order governing set-offs. When the Administration determines that it has exhausted its means of collecting the amount of overpayment the case shall be referred to the General Accounting Office for such action as it may deem appropriate.

VII. The foregoing procedure shall, insofar as applicable, be followed in cases of overpayment where no person has been deprived of any payment, in whole or in part, by reason of such overpayment.

VIII. The Administrator and each Regional Director of the Administration shall take such steps as are necessary to insure the application of this procedure and the protection of the interests of the Government in the cases to which it is applicable.

IX. This procedure does not apply to --

- A. Cases involving the misdelivery of Government checks which shall be handled in accordance with the procedure therefor now or hereafter established; or
- B. Cases involving the distribution of parity payments under the 1934 and 1935 cotton acreage reduction contracts, which shall be handled on and in accordance with Form Cotton 35 for the year 1934 and Form Cotton 135 for the year 1935; or
- C. Cases involving the distribution of 1935 cotton price adjustment payments, which shall be handled on and in accordance with Form C.A.P.-3; or
- D. Cases involving the failure of a person who received any payment under or in connection with a rental-benefit contract as a trustee to make a distribution of the payment in accordance with the terms of his trust, which shall be handled in such manner as to accomplish effectively and fully the object of such trust.

Done at Washington, D.C.,
this 5th day of January, 1940.
Witness my hand and the seal of the
Department of Agriculture.

(SEAL)

H a w a l l a c e
Secretary of Agriculture.

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
WASHINGTON, D. C.

PROCEDURE GOVERNING THE HANDLING OF CASES INVOLVING
OVERPAYMENTS UNDER ANY PROGRAM ADMINISTERED THROUGH
THE AGRICULTURAL ADJUSTMENT ADMINISTRATION

By virtue of the provisions of Section 9 of Public No. 716, 76th Congress, approved July 2, 1940, ACP-115 is hereby amended and supplemented as follows, and any part of ACP-115 which is in conflict with the following is hereby amended accordingly:

1. Where a check issued pursuant to Section 8 of the Agricultural Adjustment Act of 1933, the item entitled "Payments for Agricultural Adjustment " contained in the Supplemental Appropriation Act, fiscal year 1936, as amended, or pursuant to the 1939 or prior Agricultural Conservation Programs, was delivered to the payee on or before July 1, 1940, and all or a part of the proceeds of such check was earned by a second person by virtue of his having in good faith contributed to the rendering of performance for which the check was issued, and the payee,

- (a) On or before July 1, 1940, turned over to the second person all or a part of the proceeds of the check so earned by the second person, such second person is entitled to retain the amount received irrespective of whether such second person filed a timely application therefor, provided there has been or is filed with the appropriate certifying officer of the Agricultural Adjustment Administration acceptable evidence, as defined in paragraph 3 below, that such private settlement has been made.
- (b) Refunded or refunds to the United States all or a part of the proceeds of such check so earned by the second person or such amount has been or is set off against a subsequent payment due such first person, the second person shall be entitled to receive the amount so recovered by the United States irrespective of whether such person has filed a timely application for payment, provided such second person has made or makes application therefor.

2. Where a check issued pursuant to any program administered or hereafter administered by the Agricultural Adjustment Administration was or is delivered to the payee on or after July 2, 1940, and it appears that all or a part of the proceeds thereof was earned by another person under the program pursuant to which the check was issued, the procedure set forth in ACP-115 shall be followed.

3. The term "acceptable evidence" as used above shall be evidence reasonably establishing the fact that a settlement has been made. Where possible it shall consist of a written statement signed by the person to whom the money was turned over, acknowledging receipt of the amount in question from the first person, and showing the approximate date of the settlement or the exact date thereof if the settlement was made on or approximately July 1, 1940. If, however, such statement cannot be obtained, a statement of the facts surrounding the transaction from any person having personal knowledge of such settlement, other than the person who turned over the money, shall be acceptable. In the latter event a statement approved by a member of the county committee shall be submitted setting forth the reason a statement was not submitted by the person to whom the money was turned over.

4. Section V C (1) is revised to read as follows:

"(1) so advise the Regional Director in writing, who shall take steps necessary to make a charge on the Register of Indebtedness in the State Office against the person receiving the overpayment for the full amount of the payment received by him for the farm with respect to which it is determined that there was fraudulent conduct."

(SEAL)

Done at Washington, D. C.,
this 1st day of October, 1940.
Witness my hand and the seal of
the Department of Agriculture.

/s/ Paul H. Apoleby
Acting Secretary of Agriculture.

